

AMENDED IN SENATE MAY 17, 2006

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1772

Introduced by Senator Ashburn

February 24, 2006

An act to amend Sections ~~111070~~ *111070*, *111115*, *111130*, and *111170* of, *and to add Section 111091 to*, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1772, as amended, Ashburn. Public health: vended water.

Existing law, the Sherman Food, Drug, and Cosmetic Law, includes provisions relating to bottled and vended water. A violation of this law, or the regulations adopted thereunder.

Existing law requires the State Department of Health Services to require that each water-vending machine, retail water treatment plant, water hauler vehicle and facility, and private water source be maintained in a clean and sanitary condition at all times.

Existing law requires that each product dispensed by a water-vending machine, as defined, be tested at least every 6 months for coliform bacteria.

This bill would change the definition of "water-vending machine" to mean "water-connected" vending machines designed to dispense drinking water, purified water, or other water products. It would require the department to ensure that a sample of water-vending machines are inspected annually and would set forth the inspection criteria.

This bill would require water-vending machine operators, when required by the department, to cure any inspection related ~~violation~~ *noncompliance* of applicable ~~state health and safety~~ laws *within 30 days*. This bill would also require water-vending machine operators to post a sign on each machine indicating the last date that the machine was serviced.

This bill would require water-vending machines to be designed to remove turbidity, off-tastes, and odors and provide infection treatment, and would authorize inclusion of a process for total dissolved solids reduction or removal.

Existing law imposes various requirements with regard to the labeling and advertising of bottled water and vended water, as provided. Existing law requires water-vending machines, retail water facilities, and private water sources that sell water at retail to display in a position clearly visible to customer specified information, including, among other things, a telephone number that may be called for further information, service, or complaints.

This bill would require that the telephone number be toll free *and that the notice include the department's toll-free telephone number*.

Existing law requires the department to charge and collect a license fee of \$10.25, adjusted annually, per water-vending machine.

This bill would instead require the department to charge and collect a license fee of \$25, adjusted annually, per water-vending machine.

By imposing additional duties upon operators of water-vending machines, retail water facilities, and private water sources, thus creating an additional crime, this bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 111070 of the Health and Safety Code is*
2 *amended to read:*

1 111070. (a) “Bottled water,” means any water that is placed
2 in a sealed container at a water-bottling plant to be used for
3 drinking, culinary, or other purposes involving a likelihood of the
4 water being ingested by humans. Bottled water shall not include
5 water packaged with the approval of the department for use in a
6 public emergency.

7 (b) “Vended water” means any water that is dispensed by a
8 water-vending machine, retail water facility, or water from a
9 private water source, or other water as defined in Section 111170
10 that is not placed by a bottler in sealed containers, and that is
11 dispensed by a water-vending machine, retail water facility,
12 water hauler, or any other person or facility for drinking,
13 culinary, or other purposes involving a likelihood of the water
14 being ingested by humans. “Vended water,” does not include
15 water from a public water system that has not undergone
16 additional treatment. Water sold without further treatment is not
17 “vended water” and shall be labeled in accordance with
18 paragraph (10) of subdivision (a) of Section 111170.

19 (c) “Water-bottling plant” means any facility in which bottled
20 water is produced.

21 (d) A “water-vending machine” means ~~any self-service device~~
22 ~~that, upon insertion of a coin, coins, or token, or upon receipt of~~
23 ~~payment by any other means, dispenses a unit volume of water to~~
24 ~~be used for drinking, culinary, or other purposes involving a~~
25 ~~likelihood of the water being ingested by humans a~~
26 *water-connected vending machine designed to dispense drinking*
27 *water, purified water, or other water products.*

28 (e) “Water hauler,” means any person who hauls water in bulk
29 by any means of transportation if the water is to be used for
30 drinking, culinary, or other purposes involving a likelihood of the
31 water being ingested by humans.

32 “In bulk,” as used in this subdivision, means containers having
33 capacities of 250 gallons or greater.

34 (f) “Retail water facility” means any commercial
35 establishment where vended water is sold, and placed in
36 customer’s containers, or placed in containers sold or given to
37 customers who come to the establishment to obtain water.

38 (g) “Private water source,” means a privately owned source of
39 water, other than a public water system, that is used for bottled or
40 vended water and meets the requirements of an approved source

1 for bottled water as defined in Section 129.3 of Title 21 of the
2 Code of Federal Regulations.

3 (h) “Bottled water distributor” means any person, other than
4 an employee or representative of a bottled water plant, who
5 delivers bottled water directly to customers.

6 *SEC. 2. Section 111091 is added to the Health and Safety*
7 *Code, to read:*

8 *111091. (a) A water-vending machine shall be designed to*
9 *reduce or remove turbidity, off-tastes, and odors and provide*
10 *infection treatment. A process for total dissolved solids reduction*
11 *or removal may be included.*

12 *(b) The department shall adopt regulations setting forth the*
13 *minimum standards for compliance with this section.*

14 **SECTION 1.**

15 *SEC. 3. Section 111115 of the Health and Safety Code is*
16 *amended to read:*

17 *111115. (a) The department shall require that each*
18 *water-vending machine, retail water treatment plant, water hauler*
19 *vehicle and facility, and private water source be maintained in a*
20 *clean and sanitary condition at all times.*

21 ~~*(b) When required by the department, a water-vending*~~
22 ~~*machine operator shall cure any inspection-related violation of*~~
23 ~~*applicable health and safety laws.*~~

24 ~~*(c) Water-vending machine operators shall post on each*~~
25 ~~*machine a sign indicating the last date that the machine was*~~
26 ~~*served.*~~

27 *(b) The department shall ensure that water-vending machines*
28 *are inspected annually. The inspection schedule shall be based*
29 *on the number of machines owned or operated by each individual*
30 *water-vending machine operator. These annual inspections shall*
31 *be conducted according to the following criteria:*

32 *(1) For water-vending machines of operators with from 1 to*
33 *10, inclusive, machines, the department shall ensure that one*
34 *machine plus 50 percent of the machines in excess of two*
35 *machines are inspected.*

36 *(2) For water-vending machines of operators with from 11 to*
37 *99, inclusive, machines, the department shall ensure that five*
38 *machines plus 15 percent of the machines in excess of 20*
39 *machines are inspected.*

1 (3) *For water-vending machines of operators with from 100 to*
2 *500, inclusive, machines, the department shall ensure that 17*
3 *machines plus 10 percent of the machines in excess of 150*
4 *machines are inspected.*

5 (4) *For water-vending machines of operators with 501 to*
6 *1,000, inclusive, machines, the department shall ensure that 52*
7 *machines plus 5 percent of the machines in excess of 600*
8 *machines are inspected.*

9 (5) *For water-vending machines of operators with more than*
10 *1,000 machines, the department shall ensure that 72 machines*
11 *plus 2 percent of the machines in excess of 3,500 machines are*
12 *inspected.*

13 (c) *The department may directly inspect the water-vending*
14 *machines, or direct the water-vending machine operator to*
15 *perform all or certain components of the procedures outlined in*
16 *subdivision (d).*

17 (d) *The annual inspection shall consist of a combination of all*
18 *of the following:*

19 (1) *Inspections for compliance with Sections 111090 and*
20 *111170.*

21 (2) *The collection of water samples.*

22 (3) *A review of the maintenance records for selected*
23 *machines.*

24 (e) *Collected water samples shall be tested for compliance*
25 *with applicable law as it relates to lead and total*
26 *trihalomethanes (TTHMs). If the water-vending machine*
27 *operator is instructed by the department to test water samples,*
28 *these samples shall be sent to an Environmental Protection*
29 *Agency (EPA) certified laboratory, as set forth in Section*
30 *111165, for the required testing. The results shall be shared with*
31 *the department upon completion.*

32 (f) *Within 30 days of an inspection, the water-vending machine*
33 *operator shall be notified of any violations found. The notice*
34 *shall identify the machine by address of the location and serial*
35 *number of the machine, and shall state the date and time of the*
36 *inspection.*

37 (g) *When required by the department and within 30 days of*
38 *written notification, water-vending machine operators shall*
39 *correct any inspection related findings of noncompliance with*
40 *applicable law.*

SEC. 4. Section 111130 of the Health and Safety Code is amended to read:

111130. (a) The department shall charge and collect a fee for each license application submitted in accordance with the fee schedule in Table 1, that shall be an amount reasonably necessary to produce sufficient revenue to enforce this article. The fees collected shall be adjusted annually as required by Section 100425. New applicants for a water-bottling plant license shall pay Category 2 fees for the first license year.

(b) The water-bottling plant and bottled water distributor categories shall be determined by dividing by 52 the number of gallons produced or shipped into California during the previous year. If the result is an average of 5,000 gallons or less per week, the firm is Category 1. If the average exceeds 5,000 gallons per week, the firm is Category 2.

Table 1
License Fees

License Class	Annual Fee
Water-Bottling Plant	
Category 1	\$310
Category 2	875
Water-Vending Machine	10.25
	25
Water Hauler	310
Retail Water Facility	310
Private Water Source Operator	310
Bottled Water Distributor	310

(c) The owners or operators of each water-bottling plant, retail water facility, private water source, each water hauler in California and bottlers or distributors of water bottled out-of-state shall make application for a license on forms provided by the department. Applications and license fees shall be submitted for each calendar year.

(d) Each water-vending machine owner or operator shall make application each calendar year for a license for all machines on forms provided by the department. A decal or seal provided by the department indicating a license fee has been paid

1 shall be affixed in a prominent place to each water-vending
2 machine in service.

3 ~~SEC. 2.~~

4 SEC. 5. Section 111170 of the Health and Safety Code is
5 amended to read:

6 111170. (a) Labeling and advertising of bottled water and
7 vended water shall conform with this section, Chapter 4
8 (commencing with Section 110290), and applicable portions of
9 Part 101 of Title 21 of the Code of Federal Regulations.

10 (b) Each container of bottled water sold in this state, each
11 water-vending machine, and each container provided by retail
12 water facilities located in this state shall be clearly labeled in an
13 easily readable format. Retail water facilities that do not provide
14 labeled containers shall post, in a location readily visible to
15 consumers, a sign conveying required label information.

16 (c) Water-vending machines, retail water facilities, and private
17 water sources that sell water at retail shall display in a position
18 clearly visible to customers the following information:

- 19 (1) The name and address of the operator.
20 (2) The fact that the water is obtained from an approved public
21 water supply or licensed private water source.
22 (3) A statement describing the treatment process used.
23 (4) If no treatment process is utilized, a statement to that
24 effect.

25 (5) A toll-free telephone number that may be called for further
26 information, service, or complaints *and the departments' toll-free*
27 *telephone number that may be called for questions or complaints.*

28 (6) *The date which the machine was last serviced.*

29 (7) *A notice to consumers listing the operator's*
30 *recommendations for the type of container suitable for use with*
31 *the water-vending machine.*

32 (d) Bottled water may be labeled "drinking water,"
33 notwithstanding the source or characteristics of the water, only if
34 it is processed pursuant to the Food and Drug Administration
35 Good Manufacturing Practices contained in Section 165.110 and
36 Parts 110 and 129 of Title 21 of the Code of Federal Regulations,
37 Sections 12235 to 12285, inclusive, of Title 17 of the California
38 Code of Regulations, and any other requirements established by
39 the department pursuant to Sections 111145, 111150, and
40 111155. Any vended water and any water from a retail water

1 facility may be labeled “drinking water,” notwithstanding the
2 source or characteristics of the water, only if it is processed
3 pursuant to Article 10 (commencing with Section 114200) of
4 Chapter 4 of Part 7 and any other requirements established by the
5 department pursuant to Sections 111145, 111150, and 111155.

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the
11 penalty for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition of a
13 crime within the meaning of Section 6 of Article XIII B of the
14 California Constitution.